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09/892,767

06/28/2001

Moshe Weiner

Q63327

3418

7590

08/09/2006

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EXAMINER

FLETCHER, MARLON T

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**MAILED**  
AUG 09 2006  
**GROUP 2800**

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/892,767  
Filing Date: June 28, 2001  
Appellant(s): WEINER ET AL.

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William H Mandir  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 08/12/2004 appealing from the Office action mailed 04/13/2004.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,288,319	CATONA	9-2001
5,555,017	LANDANTE ET AL.	9-1996
5,953,005	LIU	9-1999
5,564,001	LEWIS	10-1996

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-13, 15, 18, 20-25, 27, 30, 31, and 33-39, are rejected under 35 U.S.C. 103(a) as being unpatentable over Catona (6,288,319) in view of Landante et al. (5,555,017).

As recited in claims 1, 20 and 25, Catona discloses a tele-karaoke system for performing karaoke comprising: a tele-karaoke server (18) storing a plurality of songs in karaoke format', a user interface (12) allowing a user to select a song in karaoke format from said tele-karaoke server in order to perform the song as a karaoke performance; and a user multimedia server (20) recording the karaoke performance as a message (figure 3).

As recited in claims 2, 8, 13, 21, 24, 30, 34, and 36, Catona discloses the tele-karaoke system, wherein the user multimedia server allows the user to send the recorded performance as a message to another as discussed in column 3, lines 42-45.

As recited in claims 3, 9, 22, and 37, Catona discloses the tele-karaoke system, wherein the user multimedia server allows the user to edit the recorded karaoke performance as discussed in column 2, Lines 47-49 and column 3, lines 7-20.

As recited in claims 4, 10, 31, and 38, Catona discloses the tele-karaoke system,

wherein the user multimedia server allows the user to listen to the recorded karaoke performance as discussed in column 3, lines 1-2.

As recited in claims 5, 11, 23, 33, 35, and 39, Catona discloses the tele-karaoke system, wherein the user multimedia server allows the user to store the recorded karaoke performance via storage (20).

As recited in claims 6 and 12, Catona discloses the tele-karaoke system, wherein said user multimedia server includes customer storage space to store recorded performances of the user via storage (20).

As recited in claim 7, Catona discloses the tele-karaoke system, further comprising a tele-karaoke service provider coupled to the user interface and the tele-karaoke server to regulate user interaction and retrieve songs from the tele-karaoke server as seen in figure 2.

As recited in claims 15, 18, and 27, Catona discloses the tele-karaoke system, wherein the user interface is a personal computer (12).  
Catona does not disclose a MMS server.

However, Landante et al. provides a communication network, wherein a user controls multimedia data through a network, wherein the signals include audio, video, and data, wherein the network utilizes a MMS (abstract; figures 1, 2, and 5).

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the teachings of Landante et al. with the apparatus of Catona, because the combination allows the communication to expand from multimedia to MMS messaging, wherein the transmission of video, audio, and text can be transmitted over

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the network.

3. Claims 14, 16, 19, 20, 26, 28, 29, are rejected under 35 U.S.C. 103(a) as being unpatentable over Catona in view Landante et al. as applied to claims 1-13, 15, 18, 20-25, 27, 30, 31, and 33-39 above, and further in view of Lewis (5,564,001).

Catona and Landante et al. are discussed above. Catona does not disclose a telephone as the interface to the system.

However, as discussed in claim 14, 20 and 29, Landante et al. disclose a multimedia system, wherein the user interface may be a telephone (column 8, lines 14-33).

Lewis discloses a user interface is a cellular telephone as discussed in the abstract.

As recited in claims 16, 19, 26, and 28, Lewis discloses the system, wherein the user interface is a fixed telephone as seen in figure 2A.

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the teachings of Lewis with the apparatus of Catona in view of Landante et al., because Lewis provides an alternate interface for use of the multimedia system.

4. Claims 17, 32, and 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Catona in view of Landante et al. as applied to claims 1-13, 15, 18, 20-25, 27, 30, 31, and 33-39, above, and further in view of Liu.

Catona is discussed above. Catona does not disclose editing text and video. However, as recited in claims 17, 32, and 40-42 Liu discloses a tele-karaoke system, wherein the user edits the recorded message by adding at least one of text (102) and video (96).

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the teachings of Liu with the apparatus of Catona in view of Landante et al., because Liu provides the addition of video and text editing to provide the lyrics for the user.

#### **(10) Response to Argument**

The applicant argues that Catona and Landante et al. fail to disclose MMS server that records a karaoke performance. Catona does not disclose an MMS. However, Catona discloses a multimedia system, wherein multiple audio tracks are mixed to provide a karaoke-style implementation. Catona also provides a visual production which corresponds to the audio production, wherein the production can be sent as an electronic message (column 3, lines 36-50), which can be stored and sent to the user. Landante et al. clearly disclose an MMS, wherein multimedia including audio, video, and data are transmitted over a network as can be seen in figures 1, 2, and 5, and as discussed in the abstract. Both Catona and Landante et al. disclose transmitting multimedia over a network. Landante et al. actually disclose the MMS, which would be an obvious modification to Catona. A karaoke performance is merely a performance of

a sing-along, wherein a pre-recorded song is played and a person sings along with the pre-recorded song. Karaoke can also comprise a visual representation of the song.

Catona provides this element and further discloses recording this performance as seen in figure 3, wherein the recording can be stored in a server or database. Landante et al. are provided to show the use of a MMS multimedia messaging server in the same environment, wherein it would be obvious to combine Landante et al. with Catona.

The applicant argues that Catona does not disclose an MMS message and therefore, the combination is insufficient because the karaoke performance is not an MMS message. The examiner disagrees with this analysis. As discussed above, a karaoke performance includes audio and visual which correspond to a song. Landante discloses recording or storing audio and visual corresponding to one another, wherein the production is recorded as an MMS message. The message can then be transmitted over the network. The transition of Catona to a system utilizing an MMS message, would be obvious in light of the above with respect to Landante et al. Since both references teach the transmission of audio and visual over a network, it would be obvious to provide the transmission in the form of an MMS message which allows the transmission to be used by a device that utilizes MMS messages, such as a cellular phone.

The applicant makes arguments with regards to other references used to reject dependent claims. However, the arguments are directed to providing a karaoke performance as an MMS message. As discussed above, Landante et al. provide this feature.

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**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


  
Marion Fletcher

Primary Examiner

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July 21, 2006

Conferees:

 07-24-07  
Lincoln Donovan

Ricky Mack

 8/7/06